

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:	PROMESA
THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,	Title III
as representative of	No. 17-bk-3283-LTS
THE COMMONWEALTH OF PUERTO RICO, et al.,	(Jointly Administered)
Debtors.	

**SUMMARY SHEET**

**AMENDED APPLICATION OF CITIGROUP GLOBAL MARKETS  
INC. FOR ALLOWANCE OF PREPA TRANSACTION FEE**

Applicant:	Citigroup Global Markets Inc.
Authorized to Provide Services to:	The Financial Oversight and Management Board for Puerto Rico
Date of Retention:	January 27, 2017
Compensation Requested:	\$9,083,750
Expense Reimbursement Requested:	--
Total Requested:	\$9,083,750

This is a: \_ monthly ☒ interim \_final application

**PRIOR FEE APPLICATIONS**

Period Covered	Date Filed (ECF #)	Fees Requested	Expenses Requested	Order Date ECF#	Fees Allowed	Expenses Allowed
5/3/17-1/31/18	4/23/18 ECF#2944	\$625,000.00	\$60,971.21	1/30/19 ECF#4998	\$625,000.00	\$28,780.19
2/1/18-5/31/18	10/5/18 ECF#4020	\$1,803,571.43	\$40,912.98	7/24/20 ECF#13824	\$1,803,571.43	\$30,513.96
6/1/18-9/30/18	1/25/19 ECF #4897	\$1,975,000.00	\$20,450.63	12/7/20 ECF #15355	\$1,975,000.00	\$10,433.40
COFINA Success Fee	6/10/19 ECF#7341	\$5,873,156.76	--	7/24/20 ECF#13824	\$5,873,156.76	--

Period Covered	Date Filed (ECF #)	Fees Requested	Expenses Requested	Order Date ECF#	Fees Allowed	Expenses Allowed
10/1/18-1/31/19	10/9/20 ECF#14522	\$1,975,000.00	\$41,623.98	3/18/22 ECF#20412	\$1,940,488.72	\$41,623.98
2/1/19-5/31/19	10/9/20 ECF#14523	\$4,300,000.00	\$26,187.61	8/12/22 ECF#21826	\$4,300,000.00	\$9,827.90
6/1/19-9/30/19	3/22/21 ECF#16155	\$4,705,000.00	\$813,391.60	8/12/22 ECF#21826	\$4,705,000.00	\$811,563.30
10/1/19-1/31/20	3/22/21 ECF#16156	\$4,840,000.00	\$1,206.00	8/12/22 ECF#21826	\$4,840,000.00	--
2/1/20-5/31/20	3/22/21 ECF#16157	\$4,840,000.00	\$9,354.30	8/12/22 ECF#21826	\$4,840,000.00	\$7,022.70
6/1/20-9/30/20	3/22/21 ECF#16158	\$4,840,000.00	\$7,115.40	8/12/22 ECF#21826	\$4,840,000.00	\$3,417.00
10/1/20-1/31/21	7/7/22 ECF #21457	\$4,840,000.00	\$10,606.80	12/12/22 ECF#23045	\$4,840,000.00	\$7,982.70
2/1/21-5/31/21	7/7/22 ECF#21458	\$4,840,000.00	\$6,660.90	12/12/22 ECF#23045	\$4,840,000.00	\$6,017.10
6/1/21-9/30/21	8/4/22 ECF#21727	\$4,840,000.00	\$3,859.20	12/12/22 ECF#23045	\$4,840,000.00	\$3,426.30
10/1/21-1/31/22	8/4/22 ECF#21727	\$4,840,000.00	\$6,099.30	12/12/22 ECF#23045	\$4,840,000.00	\$5,092.50
2/1/22-5/31/22	8/4/22 ECF#21729	\$4,840,000.00	\$4,380.00	12/12/22 ECF#23045	\$4,840,000.00	\$4,380.00

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p style="text-align: center;">as representative of</p> <p>THE COMMONWEALTH OF PUERTO RICO, et al.,</p> <p style="text-align: right;">Debtors.</p>	<p>PROMESA</p> <p>Title III</p> <p>No. 17-bk-3283-LTS</p> <p>(Jointly Administered)</p>
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**AMENDED APPLICATION OF CITIGROUP GLOBAL MARKETS,  
INC. FOR ALLOWANCE OF PREPA TRANSACTION FEE**

Citigroup Global Markets Inc. (“Citi”), investment banker and financial advisor to The Financial Oversight and Management Board for Puerto Rico (“Board”), as representative of the Debtors pursuant to PROMESA section 315(b), submits this amended<sup>1</sup> application for allowance on an interim basis of the \$9,083,750 transaction fee due under Paragraph 4(a)(i) of the “fees” clause of its engagement letter. In support, Citi relies upon the accompanying Declaration of John Gavin.

**JURISDICTION**

1. The Court has subject matter jurisdiction to consider this amended application, pursuant to PROMESA § 306(a).
2. Venue is proper under PROMESA § 307(a).

**BACKGROUND**

3. Citi’s initial engagement letter (Gavin Decl. Exhibit 1) did not cover strategic advisory and investment banking services relating to PREPA. (Gavin Decl. ¶¶3-5.)

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<sup>1</sup> Amended pursuant to order entered June 22, 2023. (ECF Doc. #24632.)

4. Citi and the Board accordingly entered into an amended and restated engagement letter dated February 13, 2018 (Gavin Decl. Exhibit 2) to provide for Citi to provide such for services, and for Citi to receive as compensation therefor, additional monthly fees (\$400,000/month) and a \$21.5 million (\$24 million less \$2.5 million) transaction fee “payable upon consummation of a Transaction”, with Transaction defined as “a long-term concession agreement involving the Company’s [defined as PREPA] power transmission and distribution assets as well as providing advice in connection with a potential ‘privatization’ involving the Company’s power generation assets”, and “whether in one or a series of transactions.” (Id. ¶¶6-8.)

5. In relation to negotiations over the transaction fee, Citi submitted to the Board a Power and Utilities M&A Fee Precedents spreadsheet (id. ¶9, Exhibit 3) which articulates its rationale as follows:

- Citi has proposed a success-based fee of \$24mm (relevant comparison numbers are Sellside / Total Fee). The fee is to be realized upon a board-approved restructuring of PREPA. Milestone payments may be considered per mutual agreement.
- At McKinsey & Company’s estimated value range of \$4.9bn - \$10.6bn<sup>1</sup>, the proposed success-based fee reflects approximately 0.23% - 0.49% of total estimated deal value.
  - At the low-end of the potential value range, the percentage of deal value (0.49%) is approximately equivalent to the mean of the precedent transaction (0.47%), and at the high-end of the potential value range, the percentage (0.23%) is well below both the mean and median statistics for precedent transactions (0.47% and 0.37% respectively)

<sup>1</sup> Reflects range of total estimated generation, transmission, and distribution reconstruction costs post-Hurricane Marta per a McKinsey & Company October 2017 report.

The above estimated value range is generally consistent with PREPA's April 2018 fiscal plan (id. Exhibit 4, at 19) which estimated its total assets at \$9.4 billion and total liabilities at \$11.4 billion.

6. An updated spreadsheet was later provided to the Board, under cover of a memorandum highlighting work performed in relation to the PREPA transactions. (Id. ¶10, Exhibit 5.) The mean and median fee did not change in the updated spreadsheet.

7. Several months after the amended and restated engagement letter was entered into, the Puerto Rico Electric Power System Transformation Act (Act 120) was enacted; and roughly ten months later the Puerto Rico Energy Public Policy Act (Act 57) was enacted. Together they required, and established a framework for, the unbundling of Puerto Rico's electric system through the transfer of operation and maintenance responsibilities of the transmission and distribution ("T&D") and generation systems to private operators. (Id. ¶¶13-14.)

8. The Government of Puerto Rico accordingly pursued the T&D and generation systems separately, and also determined to seek to consummate the T&D component first. (Id. ¶15.)

9. On January 11, 2020, LUMA Energy<sup>2</sup> was selected to engage the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") in negotiations pursuant to Act 120; and a T&D contract was executed June 22, 2020, under which LUMA Energy operates and maintains the T&D system. (Id. ¶16.)

10. Based on the separation of transactions Citi and the Board determined to restructure the transaction fee for Services associated with PREPA Transaction(s), by bifurcating it into T&D

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<sup>2</sup> Defined in the plan as LUMA Energy, LLC, a joint venture between Quanta Services and Canadian Utilities Limited, an ATCO Ltd. Company, and LUMA Energy ServCo, LLC, its subsidiary.

and generation system components in a third amended and restated engagement dated October 7, 2020. (Id. ¶17, Exhibit 7.)

11. \$13,975,000 (65%) of the total fee was allocated to the T&D component (¶4(a)), and the \$7,525,000 (35%) balance was allocated to the generation system component (¶4(b)). (Id. ¶18.)

12. The split was intended to reflect differences in the relative complexity of the respective transactions and differences in operations size. (Id. ¶19.)

13. As to the T&D component, \$9,083,750 (65% of the \$13,975,000 component) became payable upon entry of an order “allowing all accrued and unpaid ‘front-end transition’ obligations of the Company to LUMA Energy LLC, and LUMA Energy ServCo LLC as an administrative expense” and the \$4,891,250 (35%) balance is payable upon the PREPA plan effective date. (Id. ¶20.)

14. The split was intended to compensate Citi for work performed in structuring the T&D transaction, with a sizeable holdback payable after all conditions precedent are satisfied (the last of which is plan consummation). (Id. ¶21.)

15. The subsequent amendments (id. Exhibits 8-9, summarized at id. ¶¶23-28) to Citi’s engagement terms did not modify the PREPA fee provisions.

16. Citi previously submitted a fee statement for the \$9,083,750 transaction fee provided in Paragraph 4(a), seeking payment of 90% of the same (\$8,175,375) in January 2021 under the terms of the monthly fee order. No objection was interposed, and the amount was paid, following its submission of a no objection statement. The invoice for the subject transaction fee was attached to the initial application. (ECF Doc. #23202.)

**BASIS FOR RELIEF REQUESTED**

17. PROMESA section 316(a) provides that the Court “may award to a professional person employed by ... the [FOMB] (in [its] sole discretion) ... (1) reasonable compensation for actual, necessary services rendered by the professional, or attorney and by any paraprofessional employed by any such person; and (2) reimbursement for actual, necessary expenses.”

18. Pursuant to subdivision (c):

In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (1) the time spent on such services;
- (2) the rates charged for such services;
- (3) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this chapter;
- (4) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (5) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the restructuring field; and
- (6) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title or title 11, United States Code.

19. PROMESA section 317 and the interim compensation order permit professionals to apply for allowance of compensation and reimbursement of expenses on an interim basis.

20. The reasonableness of the requested fee is evidenced by the materials furnished to the Board and PREPA’s April 2018 fiscal plan (Gavin Decl. Exhibits 3, 4 and 5) which demonstrate that the PREPA transaction fee is a reasonable percentage of the estimated value of

the transaction at the time the amended and restated engagement letter providing for said fee was entered into.

21. The quality of Citi's work is also reflected by the fact that, after the third amended and restated engagement letter bifurcating the PREPA transaction fee provided under the amended and restated engagement letter was executed, the Board increased Citi's responsibilities by (a) designating Citi lead negotiator under the *Order Concerning Continuation of PREPA Mediation* entered September 20, 2022 (ECF Doc. #22313), to facilitate the mediation team and other parties' interaction with the Board, work for which it is not receiving any additional compensation and which was of course critical to the formulation of PREPA's plan of adjustment, and (b) engaging Citi in relation to potential privatization of Puerto Rico Highways and Transportation Authority toll roads. (Gavin Decl. ¶¶28-30.)

22. The certification required by Rule 2016 and P.R. LBR 2016-1(a)(4) is included in the Gavin Declaration (at ¶¶34-37).

WHEREFORE, Citi requests interim allowance of the \$9,083,750 transaction fee and such other and further relief as the Court deems just and proper.

Dated: June 30, 2023

Respectfully submitted,

/s/ John Gavin  
John Gavin  
Managing Director  
*Citigroup Global Markets Inc.*

Prepared by:

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